336), and he admits (see page 360) that the acceptance cannot be effectual as a promise until it reaches the offerer.

As the phrase "implied promise" is used to designate, 1. A class of cases where there is in fact a contract, the promise being established by conduct rather than the language of promise. 2. A class of cases where there is no contract, but where, on principles of enrichment, *i. e.*, to prevent one from unjustly profiting at the expense of another, the law imposes an obligation, and gives the remedy of general assumpsit, — it is to be regretted that one so well acquainted with the distinction did not separate the cases in his treatment of them, and use the phrase *quasi ex contractu* as to the latter.

The want of space prevents our referring at length to the remaining chapters of the book. The author has, however, treated the topics included in those chapters, as he has those to which we have more especially referred, with great care and thoughtfulness, and it is to be hoped that he will increase the obligation which the profession is under to him for his present publication by writing a treatise on those topics of the law of contracts not embraced in the present volume.

W. A. K.

THE LAW OF TORTS: A Treatise on the Principles of Obligations arising from Civil Wrongs in the Common Law. By Frederick Pollock. London: Stevens & Sons; Boston: Charles C. Soule. Octavo, ix. and 515 pages.

Mr. Pollock is well known in this country as the editor of the Law Quarterly Review, and the author of a treatise on the Principles of Contract. One great merit of the book he has just given us is its brevity and clearness. The principles of the law of torts are here stated in a form easy to read and to understand, and for that reason this work will probably become a favorite with students. The book contains several novel features. Leading American cases are frequently cited in the notes and referred to in the text, and have evidently had weight in the statement of several important principles. The references to the *lex aquilia* are interesting, and justify the author's assertion that this title of the Digest deserves more attention at the hands of English lawyers than it has ever received.

The general scope and object of the work are thus stated in the preface: "The purpose of this book is to show that there really is a Law of Torts, not merely a number of rules of law about various kinds of torts — that this is a true living branch of the Common Law, not a collection of heterogeneous instances." In carrying out this purpose the author has divided his work into two parts, the first being a discussion and review of the general principles common to the whole subject, viz., the grounds of liability, exceptions from liability, and remedies. The second part is devoted to the several distinct kinds of actionable wrongs. In this branch of the subject there is less scope for theory and general discussion than in the first. It is tied down by the old common-law forms of action, and to be complete should include a large amount of historical matter, explaining the origin and use of those forms of action, as well as a statement of the principles now established and acted upon as law. If, for example, some author should show clearly the origin of the action of trover, and trace minutely the successive steps by which it practically swallowed up the

action of detinue, and became a concurrent remedy with trespass *de bonis asportatis*, he could hardly fail to throw light on the difficulties of the existing law of conversion. Mr. Pollock has given no space to historical details, but he has stated the law as it is with accuracy and clearness. The subject of Negligence, for example, usually so confused and voluminous, is well covered in a single chapter of about forty pages.

To a student seeking a general theory of the law of torts, the principle of classification adopted by Mr. Pollock will probably be the most interesting part of the book. One form of its statement, found on page 17, is in these words: "Liability for delict, or civil wrong in the strict sense, is the result either of wilful injury to others, or wanton disregard of what is due to them (*dolus*), or of a failure to observe due care and caution, which has similar though not intended or expected consequences (*culpa*). We have, moreover, apart from the law of trespass, an exceptionally stringent rule in certain cases, where liability is attached to the befalling of harm without proof of either intention or negligence." In other words, all torts may be divided into these three classes: 1. Cases where an actual intention to do harm is necessary. This includes but a very small part of the law of torts at present, though malicious prosecution may be cited as an example. 2. Cases where the actor is liable only for failing to act in the circumstances up to the standard set by the law, that is, the conduct of a prudent man. This covers the great bulk of the law of torts, including the subject of Negligence. 3. Cases where the actor is liable, regardless of intention or negligence, that is, he acts at his peril. The type of this class of cases is *Fletcher* v. *Rylands*. This division embraces the whole subject, and all torts might be arranged and discussed under these heads, regardless of the forms of action. For example, trespass by entering upon real estate, and conversion by an innocent purchaser from a wrongful possessor, both being cases where a man is liable regardless of intention or negligence, belong, in a strictly scientific arrangement, under the same title with *Fletcher* v. *Rylands*. Such an arrangement might be a bold step at present, but Mr. Pollock's book will certainly do good service in preparing the way for the final statement and classification of the law of torts in the future.

W. S.

CONSTITUTIONAL PROHIBITIONS. By Henry Campbell Black, of the Williamsport (Pa.) bar. Little, Brown & Co., Boston. 316 pp. 8vo.

This "essay," as the author styles it, is divided into three parts. The first and third treat respectively of the application of that clause of the Constitution of the United States (Art. I., Sect. 10) which prohibits a State from impairing the obligation of contracts, and of the clauses (Art. I., Sects. 9 and 10) which forbid both Congress and the States to pass *ex post facto* laws and bills of attainder. Part II. treats of the way in which the States have dealt with retroactive laws not forbidden by the clauses above mentioned.

The author favors the historical method of treating his subject, and has applied it wherever practicable, *e. g.*, in showing that a State may constitutionally pass insolvent laws. The book is not full of original discussions, or of attempts to show what the law ought to be. To give